

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
EMPOWER Broadband, Inc.)	WC Docket No. 09-197
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
Pursuant to Section 214(e)(6) of the)	
Communications Act of 1934)	

**SUPPLEMENT TO PETITION FOR
ELIGIBLE TELECOMMUNICATIONS CARRIER STATUS**

Pursuant to Section 214(e)(6) of the Communications Act of 1934 (“Act”), as amended, and Section 54.202 of the Commission’s Rules (“Rules”), EMPOWER Broadband, Inc. (“EMPOWER” or “Petitioner”) respectfully submits this Supplement to the request for designation as a high-cost and/or low-income Eligible Telecommunications Carrier (“ETC”) in the Commonwealth of Virginia in all areas in which its parent company, Mecklenburg Electric Cooperative (“Mecklenburg”), through its participation in the Rural Electric Cooperative Consortium, has been allocated Connect America Fund (“CAF”) Phase II support as a winner of the CAF Phase II auction (“Auction 903”), as well as in certain additional service areas.¹

The request for designation as an ETC was submitted by EMPOWER to the Commission on September 27, 2018 (“EMPOWER Petition” or “Petition”), in the above-captioned docket. This Supplement is being submitted for the purpose of providing additional information, and making additional certifications, concerning the provision of Lifeline-only service by EMPOWER.

¹ EMPOWER is a wholly-owned direct subsidiary of Mecklenburg, a non-profit electric cooperative formed in 1938 that serves over 31,000 accounts in portions of nine Virginia counties, as well as five North Carolina counties.

EMPOWER requests the Commission to accept this Supplement to the Petition because, as explained in the following sections, EMPOWER’s designation as a Lifeline-only ETC solely in the requested areas where EMPOWER will not receive CAF-II support will enable the Petitioner to make available competitive low-income service offerings to EMPOWER’s additional customer base, allowing EMPOWER to provide the same Lifeline benefits to all of its customers—not just those who reside in EMPOWER’s CAF-II winning areas.

1. Minimum Service Standards.

The Commission has adopted minimum service standards that must be met by fixed and mobile broadband service providers in order to receive Lifeline support.² EMPOWER will satisfy all the applicable standards adopted by the Commission, and will certify its compliance with these standards in accordance with the Commission’s rules.³

Specifically, EMPOWER will comply with the minimum service standards for speed and data usage allowances that apply to fixed broadband services,⁴ as these standards are updated annually and published in a Public Notice issued by the Wireline Competition Bureau.⁵ In addition, EMPOWER will ensure that all devices it provides to consumers in connection with its provision of broadband service will be Wi-Fi enabled.⁶

2. Consumer Protection and Service Quality Standards.

² See *Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FCC Rcd 10476 (2017); 47 C.F.R. § 54.408.

³ 47 C.F.R. § 54.408(d)(4).

⁴ *Id.*, § 54.408(b)(1).

⁵ *Id.*, § 54.408(c)(1).

⁶ *Id.*, § 54.408(f).

EMPOWER will satisfy applicable consumer protection and service quality standards in accordance with Section 54.202(a)(3) of the Commission's Rules.⁷ Specifically, EMPOWER will adhere to the following standards:

a. *Rates and Terms of Service.*—For each service plan offered to new consumers, EMPOWER will disclose to consumers at point of sale and on its web site, at least the following information, as applicable: (1) any activation or initiation fee; (2) the monthly access fee or base charge; (3) the amount and nature of any voice or data allowances included in the plan; (4) the charges for domestic usage in excess of any included allowances; (5) whether there are prohibitions on data service usage and whether there are network management practices that will have a material impact on the customer's data usage experience; (6) whether any additional taxes, fees, or surcharges apply; (7) the amount or range of any such fees or surcharges that are collected and retained by EMPOWER; (8) the amount or nature of any late payment fee; (9) whether a fixed-term contract is required and its duration; (10) the amount and nature of any early termination fee that may apply; and (11) the trial period during which a consumer may cancel service without any early termination fee, as long as the consumer complies with any applicable policies.

b. *Contract Terms.*—When a customer initiates new service or a change in existing service, EMPOWER will provide or confirm any new material terms and conditions of the ongoing service with the customer.

c. *Specific Disclosures in Advertising.*—In advertising of prices for its service plans, EMPOWER will disclose material charges and conditions related to the advertised prices and services, including if applicable and to the extent the advertising medium reasonably allows: (1) whether activation or initiation fees apply; (2) monthly access fees or base charges; (3) the amount

⁷ *Id.*, § 54.202(a)(3).

and nature of any voice or data service allowances included in the plan; (4) the charges for any domestic usage in excess of any included allowances; (5) whether there are network management practices that will have a material impact on the customer's data experience; (6) whether any additional taxes, fees, or surcharges apply; (7) the amount or range of any such fees or surcharges that are collected and retained by EMPOWER; (8) whether a fixed-term contract is required, and its duration; (9) early termination fees; and (10) whether prices or benefits apply only for a limited time or promotional period and, if so, whether any different fees or charges will apply for the remainder of the contract term.

d. *Identification of Charges and Taxes.*—On customers' bills, EMPOWER will distinguish (1) monthly charges for service and features, and other charges collected and retained by EMPOWER, from (2) taxes, fees, and other charges collected by EMPOWER and remitted to federal, state, or local governments. EMPOWER will not label cost recovery fees or charges as taxes.

e. *Right to Terminate Service.*—EMPOWER will not modify the material terms of its customers' contracts in a manner that is materially adverse to those customers without providing a reasonable advance notice of a proposed modification and allowing those customers a time period of not less than 14 days to cancel their contracts with no early termination fee.

f. *Access to EMPOWER's Customer Service.*—Customers will be provided a telephone number to access EMPOWER's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. EMPOWER will provide information about how customers can contact EMPOWER in writing, by telephone, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries, and on

EMPOWER's web site. EMPOWER will also make such contact information available, upon request, to any customer calling EMPOWER's customer service department.

g. *Response to Inquiries and Complaints.*—EMPOWER will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

h. *Protecting Consumer Privacy.*—EMPOWER will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.

i. *Free Notifications.*—EMPOWER will provide, at no charge: (1) a notification to consumers of currently-offered and future service plans that include limited data allowances when consumers approach and exceed their allowance for data usage and will incur overage charges; and (2) if applicable, a notification to consumers of currently-offered and future voice plans that include limited voice allowances when consumers approach and exceed their allowance for those services and will incur overage charges.

3. Financial and Technical Capability to Provide Lifeline Service.

EMPOWER possesses the financial and technical capabilities to pay for all start-up expenses (*e.g.*, construction, hardware, operations, *etc.*) to get its fiber optic network built and to begin the provision of voice and broadband services to Lifeline customers in those portions of its ETC service area for which EMPOWER will not receive any CAF-II support in Auction 903.

EMPOWER will be able to obtain the requisite amount of lending under its existing lines of credit and EMPOWER will be able to obtain additional financing, in addition to the CAF-II support being made available pursuant to Auction 903.

4. EMPOWER Will Advertise the Availability of Its Low-Income Offerings and Charges for Such Offerings Using Media of General Distribution.

EMPOWER will advertise the availability of, and charges for, its Lifeline service offerings using media of general distribution, and will undertake outreach initiatives to increase consumer awareness of EMPOWER's Lifeline service offering, consistent with all applicable requirements.⁸

EMPOWER also commits to explain in clear, easily understood language in marketing materials used to describe the service: (1) that the offerings are Lifeline-supported services; (2) that only eligible consumers may enroll in the program; (3) the documentation that is necessary for enrollment; (4) that the program is limited to one benefit per household consisting of either wireline or wireless service; (5) that Lifeline is a government benefit program; (6) that consumers who are existing Lifeline customers of another carrier can only become a Lifeline customer of EMPOWER if they notify their existing Lifeline carrier provider that such consumer is discontinuing their existing Lifeline service; and (7) that consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment and can be barred from the program. For purposes of this commitment, to the extent required by the Commission's rules, "the term 'materials describing the service' includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms."⁹

5. Additional Steps to Prevent Waste, Fraud, and Abuse.

In its *Lifeline Reform Order*¹⁰ the Commission adopted comprehensive reforms to the low-income program to revise and modernize the Lifeline service requirements and implement measures to address waste, fraud, and abuse within the system. EMPOWER will implement the

⁸ See *id.*, §§ 54.401-54.423, 54.405(b).

⁹ *Id.*, § 54.405(c).

¹⁰ *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) ("*Lifeline Reform Order*").

necessary internal controls and processes to ensure compliance with the Commission’s final rules and any subsequent orders, including the following:

a. *Policy.*—EMPOWER will comply with the minimum federal certification and verification requirements for Lifeline eligibility and any additional requirements established by the state(s) where it is designated as an ETC.

b. *Detailed Customer Enrollment Process.*—EMPOWER will establish a uniform process for the enrollment of subscribers, in those portions of its ETC service area for which EMPOWER will not receive any CAF-II support in Auction 903, who elect EMPOWER’s Lifeline offering and qualify for Lifeline support. By doing so, EMPOWER will ensure that its enrollment and verification practices meet the needs of all customers, in a variety of situations, while recognizing that it must maintain strict compliance with all applicable requirements.

EMPOWER will establish a process to prevent waste, fraud, and abuse of the universal service system. To safeguard against misuse of the Lifeline service plan, EMPOWER will collect initial and annual certifications, and will establish safeguards to prohibit more than one supported service for each household. EMPOWER proposes the following plan to implement these certification and verification requirements:

(1) Certification Procedures.—To ensure that it provides Lifeline service only to eligible consumers, EMPOWER will sell Lifeline service only through in-person sales, which are staffed by its own employees. EMPOWER will ensure that its certification procedures are thorough, effective, and compliant with Commission requirements. Specific information will be made available to educate consumers about the one per household and other applicable rules.

At all EMPOWER locations where customers can sign up for EMPOWER’s Lifeline service, EMPOWER will make available information regarding the program, including the limit of

one Lifeline subsidy per household. EMPOWER will also undertake to check all new subscribers against the National Lifeline Accountability Database (“NLAD”), and the Lifeline National Verifier, beginning at the time the National Verifier is launched in Virginia.¹¹

EMPOWER will provide thorough initial and ongoing training in the Lifeline rules to all of its staff who are responsible for the processing of consumers’ applications and reviewing eligibility documentation. EMPOWER will ensure that all required documentation is properly reviewed by using compliance checklists.

As required by the Commission, EMPOWER will utilize and rely upon FCC Form 5629, the Universal Service Administrative Company’s (“USAC’s”) disclosure and application form,¹² for purposes of determining an applicant’s eligibility and qualifications for Lifeline service.

Prior to initiating service for a customer, EMPOWER staff will check the name and address of each Lifeline applicant (and the personal information required for verification) against the NLAD database, and the National Verifier database (after the National Verifier has been launched in Virginia), to determine whether they are associated with a customer who already receives Lifeline-supported service. If the Lifeline applicant or address is listed as a duplicate, the applicant will be required to complete the certification developed by USAC to show that the applicant lives at a multiple-household address.

(2) Verification Procedures.—As required by Commission rules, EMPOWER will require every consumer enrolled in the Lifeline program to verify on an annual basis that they receive

¹¹ Virginia has not yet been scheduled for a National Verifier launch. See USAC, National Verifier Launches, available at <https://www.usac.org/li/tools/national-verifier/launches/default.aspx>.

¹² See FCC Form 5629 (Lifeline Program Application Form), available at https://www.usac.org/res/documents/li/pdf/nv/LI_Application_UniversalForm.pdf. Form 5629 is a non-National Verifier form required in all states and territories as of July 1, 2018, “regardless of whether the National Verifier has been rolled out in that state or territory”. *Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program*, WC Docket No. 11-42, Public Notice, DA 18-161 (Feb. 20, 2018).

Lifeline service from only one ETC. EMPOWER will assist consumers in understanding this key Lifeline requirement by explaining that consumers potentially could be receiving Lifeline benefits through various types of providers.

In compliance with Section 54.410(f) of the Commission's Rules,¹³ EMPOWER will re-certify all subscribers 12 months after the subscriber's service initiation date and every 12 months thereafter. EMPOWER will undertake this re-certification by querying appropriate eligibility and income databases.¹⁴ EMPOWER will use FCC Form 5630¹⁵ to re-certify qualifying low-income consumers.¹⁶

EMPOWER will advise its Lifeline subscribers that a subscriber's failure to re-certify as to his or her continued eligibility will result in de-enrollment and the termination of the subscriber's Lifeline benefits.¹⁷ EMPOWER will report annually on its verification and re-verification procedures as required by Section 54.416 of the Commission's Rules.¹⁸

(3) Customer Education with Respect to Duplicates.—To supplement its verification and certification procedures and to better ensure that customers understand the Lifeline service restrictions with respect to duplicates, EMPOWER will ensure that its marketing and advertising also help to prevent duplicate Lifeline benefits being awarded to the same household.

(a) Marketing, Advertising and Website Content.—EMPOWER, in its marketing materials, will reinforce the limitation of one Lifeline phone per household.

¹³ 47 C.F.R. § 54.410(f).

¹⁴ *Id.*, §§ 54.410(f)(2)(i), 54.410(f)(2)(ii).

¹⁵ See FCC Form 5630 (Lifeline Program Annual Recertification Form), available at https://www.usac.org/res/documents/li/pdf/nv/LI_Recertification_UniversalForms.pdf.

¹⁶ See 47 C.F.R. § 54.410(f)(2)(iii).

¹⁷ *Id.* §§ 54.405(a)(4), 410(d)(3)(viii).

¹⁸ *Id.*, § 54.416.

(b) Other Marketing Requirements.—In addition to reminding consumers of the one-per-household rule, EMPOWER will comply with the other marketing requirements established by the Commission, as applicable, and will explain in its marketing materials used to describe the service that the offerings are Lifeline-supported services, only eligible consumers may enroll, Lifeline is a government benefit program, and other required information. These statements will also appear on EMPOWER’S website.

As the processes discussed above demonstrate, EMPOWER is committed to taking strong steps to protect against waste, fraud, and abuse within the Lifeline universal service system.

6. EMPOWER Will Enable Low-Income Consumers to Benefit from the Lifeline Discount.

Following its designation as an ETC, EMPOWER will make available to qualified low-income consumers a discounted, facilities-based service offering that meets all applicable Lifeline requirements. EMPOWER will allow its Lifeline customers to apply the \$9.25 federal Lifeline discount to any service plan offered by EMPOWER.

7. Designating EMPOWER As an ETC Authorized to Receive Lifeline Support Is in the Public Interest.

Granting EMPOWER’S Petition, as complemented by this Supplement, will serve the communications needs of consumers in the areas of Virginia served by EMPOWER. The Petitioner plans to make available to low-income consumers in Virginia a new, more affordable service offering that meets their basic and advanced communications needs.

Designating EMPOWER as an ETC, with the responsibility to provide Lifeline service to low-income consumers, will bring important public interest benefits.

A principal benefit of accepting this Supplement is that EMPOWER’S designation as a Lifeline-only ETC – solely in the requested areas where EMPOWER will not receive CAF-II support – will enable the Petitioner to make available competitive low-income service offerings to

EMPOWER's additional customer base, allowing EMPOWER to provide the same Lifeline benefits to all of its customers—not just those who reside in EMPOWER's CAF-II winning areas.

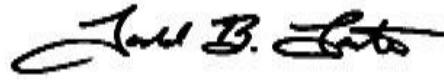
Grant of ETC designation to EMPOWER, as requested, will allow a facilities-based service provider to enter the Lifeline market in southern Virginia. The benefits to low-income consumers will be significant and include: (1) greater customer choice; (2) a new, facilities-based Lifeline service offering with competitive pricing, services, and features; (3) continued contribution to the economy through EMPOWER's facilities and employment; and (4) access to high-quality voice and broadband services.

* * * * *

For all the foregoing reasons, EMPOWER respectfully requests that the Commission accept this Supplement to the EMPOWER Petition, and designate it as a high-cost and/or low-income ETC, as requested in the Petition, so that EMPOWER will be eligible to receive CAF-II support won via Auction 903, enabling it to provide Lifeline services to consumers within its CAF-II winning areas who are qualified to receive Lifeline benefits, as well as to provide Lifeline benefits to those consumers, residing within in those portions of EMPOWER's proposed Lifeline-only ETC designation area where EMPOWER will not receive any CAF-II support in Auction 903, who are similarly qualified to receive Lifeline benefits.

Respectfully submitted,

EMPOWER Broadband, Inc.



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